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FISCAL IMPACT STATEMENT

LS 6615

BILL NUMBER: SB 213

NOTE PREPARED: May 5, 2005

BILL AMENDED: Apr 29, 2005

SUBJECT: Sales Tax on Out-of-State Sales.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR: Rep. Friend

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill brings Indiana law into conformance with the requirements of the Streamlined Sales and Use Tax Agreement concerning: (1) the definition of tobacco; and (2) monetary allowances given to sellers and certified service providers for collecting Sales and Use Taxes.

The bill also allows a partial Sales Tax exemption for a cargo trailer or a recreational vehicle and a full exemption for an aircraft purchased in Indiana, if it is to be titled or registered for use in another state. This bill provides that for cargo trailers and recreational vehicles, the exemption is equal to the Sales Tax imposed in Indiana minus the Sales Tax that would be imposed in the other state if the transaction had occurred in that state. The bill requires a retail merchant to maintain records substantiating the exemption.

Effective Date: July 1, 2005.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the changes proposed by the bill. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Streamlined Sales Tax Conformance:* These conformance provisions of the bill are expected to have little or no fiscal impact on Sales Tax revenues.

This bill adds "tobacco" to the list of items in IC 6-2.5-5-20, that are *NOT* considered "food or food ingredients for human consumption." This provision of the bill codifies an existing interpretation of IC 6-2.5-5-20 that

the DOR has already set forth in *Sales Tax Information Bulletin #9, January 2004*. This provision is not expected to have a fiscal impact on Sales Tax revenue.

The bill also adds conforming language to IC 6-2.5-11-10 concerning sellers who contract with a certified service provider (CSP) to collect and remit Sales Taxes on behalf of the seller. The added language provides that these sellers and CSP's are to be allowed a collection allowance equal to that provided for in the Streamlined Sales Tax Agreement (SSTA). As of March 21, 2005, no rate for the allowance had been agreed upon by the SSTA member states. Therefore, until a rate is established, the fiscal impact on Sales Tax revenue is indeterminable. Currently, all sellers who remits in a timely manner, as provided in IC 6-2.5-6-10, are entitled to a collection allowance of 0.83% of their total Sales and Use Tax liability for that reporting period.

Sales Tax Exemptions: This bill provides a partial Sales Tax exemption for recreational vehicles (RV's) and cargo trailers (trailers), and a full exemption for aircraft, if the RV, trailer, or aircraft is purchased in Indiana, and is to be titled or registered in another state. This exemption will result in a decrease in state Sales Tax revenue. This exemption will result in a decrease of Sales tax revenue of between an estimated \$700,000 to \$2.7 M annually.

The bill provides that in order for the purchaser to claim either of these exemptions, the purchaser must transport the RV, trailer, or aircraft out of Indiana within 30 days, and title or register the RV, trailer, or aircraft for use in another state. The bill also provides that the RV or trailer dealer shall have a copy of the purchaser's title or registration on file within 60 days, or the dealer will be liable to Indiana for the amount of the exemption provided to the purchaser.

The bill provides that any aircraft purchases meeting the above requirements are fully exempt from Sales Tax.

The Sales Tax exemption for RV's is equal to the Sales Tax imposed in Indiana minus the sales tax that would be imposed in the registration state if the transaction had occurred in that state. The example below illustrates the computation.

"Y", a resident of Virginia (VA), purchases a RV in Indiana (IN), immediately transports the vehicle back to VA, and titles the vehicle in VA. The purchase price of the vehicle was \$100,000. IN's Sales Tax rate is 6%, and VA's sales tax rate is 4%. At the time of purchase, "Y" would pay 4%, or \$4,000, in Sales Tax to IN. The exemption allowed by this bill would be 2%, or \$2,000. The computation is as follows.

6% (IN rate) minus 4% (VA rate) equals an exemption of 2%. The exemption of 2% is subtracted from the Indiana Sales Tax rate of 6%, and "Y" is required to pay 4% of the purchase price of \$100,000, or \$4,000.

If the rate that would have been paid in the state of registration or title is equal to or above the Indiana rate of 6%, then there is no exemption and the purchaser is liable for the entire 6% Sales Tax in Indiana. Conversely, if the RV is registered in a state with no Sales Tax, then the exemption is equal to 6% and no Sales Tax is due. Not taking into account any local option Sales Taxes, there are currently 20 states with a Sales Tax rate of 6% or higher.

The bill defines a "cargo trailer" as a vehicle:

- (1) without motive power;
- (2) designed for carrying property; and
- (3) designed for being drawn by a motor vehicle; and,

(4) having a gross vehicle weight rating of at least 2,200 pounds.

The bill defines a "recreational vehicle" as a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

Sales tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Background: P.L. 81-2004 (HEA 1365-2004) effective July 1, 2004 repealed a Sales Tax exemption for motor vehicles, watercraft, trailers, and aircraft purchased in Indiana and registered out-of-state.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: *Sales Tax Information Bulletin #9, January 2004*, Mark Bowersox, Indiana RV Council; U.S. Census Bureau, 1997 Economic Census; Department of State Revenue; Federation of Tax Administrators.

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